

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND**

JOSEPH GRILLO, *pro se*

Plaintiff,

v.

ERIC LYNN ANDRIST,

Defendant

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C.A. No. 2020-CV-417

(R.I. Superior Court C.A. PC-2020-5326)

NOTICE OF REMOVAL

PLEASE TAKE NOTICE that pursuant to 28 U.S.C. §1441 *et. seq.*, Rule 81(c) of the Federal Rules of Civil Procedure, and Local Civil Rule 81 of the United States District Court for the District of Rhode Island, Defendant alleges as follows:

1. Eric Lynn Andrist is named as the defendant in the civil action filed in Providence County Superior Court entitled *Joseph Grillo v. Eric Lynn Andrist*, PC-2020-5326.
2. Defendant is a citizen and resident of State of California.
3. Plaintiff, on information and belief, is a citizen and resident of the State of Rhode Island.
4. Pursuant to Local Rule 81(a), attached hereto as Exhibit A is a copy of the amended complaint filed in the case being removed. Attached hereto as Exhibit B is a copy of the Notice of Filing Removal of Action to be filed in the Superior Court of the State of Rhode Island, Providence County (minus Exhibit 1 thereto, which is a copy of this Notice). Attached hereto as Exhibit C is the original complaint filed in the Superior Court.

5. The Amended Complaint and a summons were served on the Defendant in California on September 9, 2020, and therefore within thirty (30) days of the filing of this Notice of Removal. As a result, this Notice of Removal is timely under 28 U.S.C. §1446(b).

6. The above-described action, as stated in Plaintiff's amended complaint, is one for which this Court has diversity jurisdiction pursuant to 28 U.S.C. §1332, and is therefore one which may be removed to this Court by Defendant pursuant to the provisions of 28 U.S.C. §1441(b), in that:

- a. There is complete diversity of citizenship of the parties;
- b. The removing defendant is not a citizen of the state in which the action has been brought;
- c. The amount in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, in that the complaint seeks damages in an unspecified and unlimited amount and seeks to restrain and enjoin the speech of an internet publisher, thereby involving rights protected under the First Amendment to the United States Constitution.

7. The above-described action, as stated in Plaintiff's amended complaint, also may be removed to this court pursuant to the provisions of 28 U.S.C. §1441(c) because it includes as Count V a claim for relief under the Americans with Disabilities Act, 42 U.S.C. §§12101 *et seq.*, for which this Court has federal question jurisdiction pursuant to 28 U.S.C. §1331.

8. Pursuant to Local Rule 81(a), within fourteen (14) days after filing this Notice of Removal, Defendant will "do whatever is necessary to enable the clerk of the state court to

assemble and electronically transmit a certified copy of the docket sheet and all documents filed in the case being removed.”

Defendant

Eric Lynn Andrist

By his attorney,

/s/ Samuel D. Zurier
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September 18, 2020

Certificate of Service

I hereby certify that on this 18th day of September, 2020, I have caused a true and accurate copy of the within document to be provided by mail to Joseph Grillo, 73 Primrose Hill Road, Barrington, RI 02806.

/s/ Samuel D. Zurier